



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,649	06/27/2003	Roland E. Flick	0-03-123	8322

7590 03/09/2004

Kevin D. McCarthy
Roach Brown McCarthy & Gruber, P.C.
1620 Liberty Building
420 Main Street
Buffalo, NY 14202

EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,649

Applicant(s)

FLICK, ROLAND E.

Examiner

Fredrick C Conley

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/27/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3673

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,331,698 to Newkirk et al. in view of U.S. Pat. No. 5,983,429 to Stacy et al.

Claim 1, Newkirk discloses a mattress comprising:

a self-contained mattress unit having at least a head section and a foot section, and capable of converting from a horizontal position or an inclined position to a chair-like conformation (col. 1 lines 11-15);

at least one inflatable bladder (37,38) in each section of the self-contained mattress unit;

at least one fluid source (col. 2 lines 33-38). Newkirk fails to disclose a dispersion unit in each section and a control system. Stacy discloses a mattress having dispersion units (50,480,481) located in each section of the mattress and a control system (36,228) interconnected to each dispersion unit. It would have been obvious to one having ordinary skill in the art at the time of the invention to have dispersion units in each section of Newkirk interconnected to a control system as taught by Stacy in order to control the airflow into the mattress sections.

Art Unit: 3673

Claims 2-4, wherein the at least one fluid source is inherently ambient air.

Claim 5, wherein the inflatable bladders are capable of vibrating, rotating, creating wave motions, providing not direct percussion, providing support, and combinations thereof to a user of the mattress (col. 11 lines 4-7)(Stacy).

Claim 6, wherein the control system has an input unit 36 that allows an operator to input data to control at least the inflation and/or deflation of the inflatable bladders (Stacy).

Claim 7, wherein the input unit is interconnected to the control unit as an integrated component thereof (col. 12-13 lines 55-68 & 1-56).

Claim 8, wherein the input unit is interconnected to the control unit by a tethered electrical connection/cable line (col. 13 lines 25-27)(Stacy).

Claim 10, wherein the input unit has a board 228 that interconnects to the control unit. Newkirk discloses the claimed invention except for a SIMM type daughter board. It would have been an obvious to one having ordinary skill in the art at the time of the invention to employ a SIMM daughter board , since Applicant has not disclosed that the type of board is critical and it would appear that the board of Newkirk would perform equally well.

Art Unit: 3673

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,331,698 to Newkirk et al. in view of U.S. Pat. No. 5,983,429 to Stacy et al. and U.S. Pat. No. 6,483,264 to Shafer et al.

Regarding claim 11, Newkirk discloses all of the Applicant's claimed limitations except for the input unit transmitting a remote wireless signal to a receiver on the control unit. Shafer discloses an inflatable mattress having an input unit transmitting a remote wireless signal to a receiver on the control unit (col. 5-6 lines 28-68 and 1-39). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a remote wireless signal as taught by Shafer with the control system of Newkirk in order to allow the user to control the air within the bladders while lying on the mattress or in any other position in the vicinity of the control system.

Claims 9 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,331,698 to Newkirk et al. in view of U.S. Pat. No. 5,983,429 to Stacy et al. and U.S. Pat. No. 5,542,138 to Williams et al.

Regarding claim 9, Newkirk discloses all of the Applicant's claimed limitations except for an electrically connected hinge. Williams discloses a control for a bed having an electrically connected hinge (col. 3 lines 35-47). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ an electrical hinge as taught by Williams with the mattress of Newkirk in order to enable the user to input commands and data to the control system.

Art Unit: 3673

Claim 12, Newkirk discloses a mattress comprising:

a mattress unit having at least a head section and a foot section (col. 1 lines 11-15);

at least one inflatable bladder (37,38) in each section of the self-contained mattress unit;

at least one fluid source (col. 2 lines 33-38). Newkirk fails to disclose a dispersion unit in each section and a control system. Stacy discloses a mattress having dispersion units (50,480,481) located in each section of the mattress and a control system (36,228) interconnected to each dispersion unit wherein the control system has an input unit 36 that allows an operator to input data to control at least the inflation and/or deflation of a plurality of inflatable bladders and the input unit is interconnected to the control unit by a tethered electrical connection/cable line (col. 13 lines 25-27), and the input unit has a board 228 that interconnects to the control unit. It would have been obvious to one having ordinary skill in the art at the time of the invention to have dispersion units in each section of Newkirk interconnected to a control system as taught by Stacy in order to control the airflow into the mattress sections. With regards to the a SIMM type daughter board, it would have been an obvious to one having ordinary skill in the art at the time of the invention to employ a SIMM daughter board , since Applicant has not disclosed that the type of board is critical and it would appear that the board of Newkirk would perform equally well Newkirk also fails to disclose an electrically connected hinge. Williams discloses a control for a bed having an electrically connected hinge (col. 3 lines 35-47). It would have been obvious to one having ordinary

Art Unit: 3673

skill in the art at the time of the invention to employ an electrical hinge as taught by Williams with the mattress of Newkirk in order to enable the user to input commands and data to the control system.

Claim 13, wherein the mattress unit is a self-contained capable of converting from a horizontal position or an inclined position to a chair-like conformation (col. 1 lines 11-15); wherein each section has at least one dispersion unit and each dispersion unit provides the fluid, obtained from the fluid source, to the conduit which directs the fluid into the inflatable bladder positioned in the section of the dispersion unit; the control system positioned in one of the sections and interconnected to each dispersion unit to control the dispersion of the fluid to the inflatable bladders in each section.

Claims 14-16, wherein the at least one fluid source is inherently ambient air.

Claim 17, wherein the inflatable bladders are capable of vibrating, rotating, creating wave motions, providing not direct percussion, providing support, and combinations thereof to a user of the mattress (col. 11 lines 4-7)(Stacy).

Art Unit: 3673


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



TERI PHAM LUU
PRIMARY EXAMINER